

McConnell Remarks on the Filibuster

U.S. Senate Republican Leader Mitch McConnell made the following remarks (as prepared) at the Rules Committee Hearing on Examining the Filibuster: History of the Filibuster 1789 – 2008 on Thursday:

“I appreciate you allowing me to make a few observations at the outset before I need to return to the Senate floor.

“We all read the newspapers and I think understand what these series of hearings are about. Some Members of the Democratic Conference would like to eliminate the Senate’s long-standing tradition of the freedom to debate and amend legislation. This, in turn, would eliminate the requirement that controversial legislation achieve more than just bare majority support in the Senate.

“It probably comes as no great surprise that I am not in favor of such a proposal. I never have been, including when I served in the Majority.

“The reason is best described by one of our Senate colleagues, who once wisely said the following:

‘Let us clearly understand one thing. The Constitution’s Framers never intended for the Senate to function like the House of Representatives. . . .

‘The Senate . . . [was] intended to take the long view and to be able to resist, if need be, the passions of the often intemperate House. Few, if any, upper chambers in the history of the western world have possessed the Senate’s absolute right to unlimited debate and to amend or block legislation passed by a lower House. . . .

‘I have said that as long as the Senate retains the power to amend and the power of unlimited debate, the liberties of the people will remain secure.’”

“That was Senator Byrd. He delivered those remarks in 1997. He was right then. And he was right again when he reaffirmed his belief in those principles this year. Here’s what he wrote in a “Dear Colleague” letter:

‘I believe that efforts to change or reinterpret the rules in order to facilitate expeditious action by a simple majority . . . are grossly misguided. . . . The Senate is the only place in government where the rights of a numerical minority are so protected. Majorities change with elections. A minority can be right, and minority views can certainly improve legislation. . . . Extended deliberation and debate . . . are essential to the protection of the liberties of a free people.’”

“Now, why are some in Senator Byrd’s own party proposing to disregard his counsel? The most disingenuous thing I have heard is that the Senate’s rules must be changed so ‘the democratic process’ will work.

“I submit that the effort to change the rules is not about democracy. It is not about doing what a majority of the American people want. It is about power.

“If it were truly about doing what a majority of Americans wanted, the Democratic Majority in the Senate would not have muscled through a health spending bill that a majority of Americans opposed—and opposed by wide margins. When that bill finally passed the Senate, 39% of Americans favored it, while 59% opposed it, according to CNN. Other surveys had similar results.

“No, what this is about is power. It is about a political party—or a faction of a political party—that is frustrated that it cannot do whatever it wants, whenever it wants, precisely the way it wants to do it. That’s what this is about.

“Rather than throw out 200 years of Senate tradition and practice, and throw away the very principles of which Senator Byrd has reminded us, I’d like to suggest a less radical and more productive solution to those who would like the Senate to function differently.

“First, at the risk of sounding like Yogi Berra, the virtue of a supermajority requirement for legislation is that a bill that passes enjoys supermajority support—which helps ensure that most Americans will support it. When the Democratic Majority has reached out to the Minority—which does not mean trying to pick off a few Republicans—we have had success. I hope we can have another one with financial regulatory reform and in other areas. But that requires the Majority to meet us in the middle.

“My second suggestion is not to run the Senate floor like the House. The Senate’s tradition of freedom to amend has been a lot less free over the last few years.

“Since assuming control of the Senate, the Democratic majority has been engaging in what my friend the Majority Leader once called a “very bad practice.” And according to CRS, it has been engaging in it to an unprecedented extent. What I am talking about is the Majority repeatedly blocking senators in the Minority from offering amendments by filling the so-called “amendment tree.”

“All Majority Leaders do it. But this Majority has done it to an unprecedented extent. Senator Frist did it 12 times in four years. By contrast, Senator Reid has done it more than twice as often—26 times—in a little over three years. In fact, the current Majority has blocked the Minority from offering amendments almost as often as the last five Majority Leaders *combined*.

“Now, if the Democratic Majority wants to generate inflated cloture vote numbers for political purposes, well, then go ahead and keep treating Minority senators as if they were serving in the House. But if you truly do not like all the cloture votes, then let your colleagues in the Minority offer some amendments.

“True, there may be some votes you would rather not cast, but that’s nothing new. What is new is the unprecedented extent to which the Majority is avoiding having to vote on amendments. As my good friend the Majority Whip likes to say: “If you don’t like fighting fires, then don’t become a fireman. And if you don’t like casting tough votes, then don’t run for the U.S. Senate.”

“Finally, some of the testimony states that one’s view of the filibuster depends on where one sits. It’s true that I opposed filibustering judicial nominees when I was in the Majority. But I opposed doing so when I was in the Minority too, and I opposed doing so regardless of who was in the White House.

“During the Clinton Administration, I put my votes where my mouth was and repeatedly voted with my Democratic colleagues to advance a nominee—to invoke cloture—when a Minority of those in my party would not consent to do so, even though I opposed the nominee and later voted against him or her.

“Not surprisingly, I was also against my Democratic colleagues not giving President Bush’s judicial nominees an up or down vote. In short, I was against expanding the use of the filibuster into an area in which it traditionally had not been used. One can agree with that view or not. But it’s one thing to disagree with *expanding* the use of the filibuster into a non-traditional area, regardless of who is the President and who is in the Minority. It’s another thing to be *for expanding* it into judicial nominations when one is in the Minority, but to turn around and urge its elimination *altogether* when one is in the Majority.

“When it comes to preserving the right to extended debate on legislation, Republicans have been consistent. On January 5, 1995, after having just been voted into the Congressional Majority for the first time in 40 years, Senate Republicans walked onto the Senate floor to cast their first vote. It was on Senator Harkin’s proposal to sequentially reduce the cloture requirement to a simple majority.

“Even though it was in our short term legislative interest to support Senator Harkin, all Republicans—every one—voted against his proposal. So did the current vice-President, the current Senate Majority Leader, and not surprisingly, the current Senate President Pro Tempore. That was the right position in 1995. It is the right position today. In sum, the Founders purposefully crafted the Senate to be a deliberate, thoughtful body. A supermajority requirement to cut off the right to debate ensures that wise purpose. Eliminating it is a bad idea.

“I thank the Chairman for letting me speak, and I look forward to learning about the results of this hearing.”

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